UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
12/369,674	02/11/2009	George Blaine	DESS132486	4289

26389   7590   01/26/2017
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GAMI, TEJAL

ART UNIT	PAPER NUMBER
2126	

NOTIFICATION DATE	DELIVERY MODE
01/26/2017	ELECTRONIC

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UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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Ex parte GEORGE BLAINE, DAVID A. BELOW,
and A.W. VOGELEY JR.

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Appeal 2015-003035[1]
Application 12/369,674
Technology Center 2100

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Before MAHSHID D. SAADAT, NORMAN H. BEAMER,
and MICHAEL M. BARRY, *Administrative Patent Judges.*

BEAMER, *Administrative Patent Judge.*

DECISION ON APPEAL

Appellants appeal under 35 U.S.C. § 134(a) from the Examiner's
Final Rejection of claims 1–7, 11–15, 17–20, 23, and 24.[2] Claims 8–10, 16,
21, and 22 are cancelled. We have jurisdiction over the pending rejected
claims under 35 U.S.C. § 6(b).

We reverse.

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[1] An oral hearing was held January 10, 2017.

[2] Appellants identify John Bean Technologies Corporation as the real party
in interest. (App. Br. 1.)

THE INVENTION

Appellants' disclosed and claimed invention is directed to automatically portioning workpieces, such as food products, into both shape and other user-defined specifications. (Abstract.)

Claim 1, reproduced below, is illustrative of the claimed subject matter:

1. A method of automatically portioning a food product into one or more final pieces based on an adjustable two-dimensional reference shape plus at least one additional physical criteria for the one or more final pieces, comprising:

(a) using a user-interface system, prompting a user to enter via user input device an adjustable two-dimensional reference shape into which a food product is to be portioned, the adjustable two-dimensional reference shape being defined by a plurality of specified discrete points located along an outline of the two-dimensional reference shape, each of said points having an X and Y coordinate value in X-Y space, wherein the outline of the adjustable two-dimensional reference shape is displayed on an output display;

(b) permitting a user to optionally edit via the user input device the user-entered, adjustable two-dimensional reference shape comprising the user manually manipulating the user input device to move one or more of the specified discrete points on the outline of the user-entered two-dimensional reference shape while and as displayed on the output display, to a new location, to result in a change of the shape of the two-dimensional reference shape as shown on the output display, said manually manipulating of the user interface system selected from the group consisting of:

(i) selecting one or more of the specified discrete points along the two-dimensional outline of the reference shape and using the user input device of the user-interface system to manually move the one or more specified discrete points in X-Y space to a new location in X-Y space while and as shown on the

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output display, thereby to edit the shape of the adjustable two-dimensional reference shape as shown on the output display; and

(ii) selecting one or more of the specified discrete points along the outline of the two-dimensional reference shape shown on the output display and using the user input device to specify new X-Y coordinate values for said one or more specified discrete reference shape points thereby to edit the shape of the adjustable two-dimensional reference shape while and as shown on the output display;

(c) retaining data pertaining to the user-entered two-dimensional reference shape in computer memory;

(d) selecting at least one additional physical criteria, m addition to the adjustable two-dimensional reference shape, used to portion a food product into one or more final pieces, said at least one additional physical criteria selected from the group consisting of: the weight of the final piece; the maximum weight of the final piece; the minimum weight of the final piece; the length of the final piece; the maximum length of the final piece; the minimum length of the final piece; the width of the final piece, the maximum width of the final piece; the minimum width of the final piece; the height of the final piece; the maximum height of the final pieces, the minimum height of the final piece, the thickness of the final piece, the maximum thickness of the final piece; the minimum thickness of the final piece;

(e) determining a cut path to portion the food product into one or more final pieces having the user-entered two-dimensional reference shape as retained in the computer memory and as optionally edited by the user and meeting the at least one additional selected physical criteria of the one or more final pieces in addition to the two-dimensional adjustable reference shape used to portion the food product; and

(f) portioning the food product into one or more final pieces according to the determined cut path.

REJECTIONS

The Examiner rejected claims 1–7, 11–15, 17–20, 23, and 24 under 35 U.S.C. § 102(b) as being anticipated by Kim et al. (GB 2364894 A, pub. Feb. 13, 2002). (Final Act. 2–26.)

ISSUE ON APPEAL

Appellants' arguments in the Appeal Brief present the following dispositive issue:[3,4]

Whether the Examiner erred in finding Kim discloses limitation (b) of independent claims 1, 12 and 17, which requires, inter alia, "permitting a user to optionally edit via the user input device the user-entered, adjustable two-dimensional reference shape." (App. Br. 11–21.)

ANALYSIS

For limitation (b) of the independent claims at issue, the Examiner relies on the disclosure in Kim of a computer that compares a scanned image of a food item to a stored shape, determines the best fit for the desired shape into the scanned image, and allows the user to optimize the shape by selecting particular "dimensional units" such as length, thickness, width, or weight for adjustment by the computer. (Final Act. 5–6; Kim Fig. 2, p. 12, ll. 12–20, 27–33.)

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[3] Rather than reiterate the arguments of Appellants and the findings of the Examiner, we refer to the Appeal Brief (filed Oct. 8, 2014); the Reply Brief (filed Jan. 12, 2015); the Final Office Action (mailed Feb. 11, 2014); and the Examiner's Answer (mailed Nov. 10, 2014) for the respective details.

[4] Because Appellants present a dispositive issue for the independent claims, we do not address other issues argued by Appellants.

Appellants argue:

> Kim specifies that the computer or user may select the length, thickness, width, or weight of the desired shape to be optimized. Thereupon, the computer adjusts the length, thickness, width, or weight to maximize such dimensional unit. As such, Kim does not disclose or suggest that the user use an input device to manually move discrete X-Y points on an outline of a reference shape to edit the reference shape. In Claims 1, 12, and 17, the user controls the extent to which the reference shape is adjusted, whereas in Kim the user does not have such control.

(App. Br. 18.)

We are persuaded by Appellants' argument. Although Kim does allow some user input that causes the disclosed computer to adjust the shape of the food item being cut, Kim does not disclose the subject matter of element (b) of the independent claims.

Therefore, on the record before us, we are constrained to find the Examiner errs in rejecting independent claims 1, 12, and 17.

CONCLUSIONS

For the reasons stated above, we do not sustain the anticipation rejections of independent claims 1, 12, and 17. We also do not sustain the anticipation rejections of claims 2–7, 11, 13–15, 18–20, 23, and 24, which claims are dependent from claims 1, 12, or 17.

DECISION

We reverse the Examiner's rejections of claims 1–7, 11–15, 17–20, 23, and 24.

REVERSED